

E-Filed 6/22/2009

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

JAMES ALAN BUSH,

Plaintiff,

v.

SUNNYVALE DEPARTMENT OF PUBLIC
SAFETY, et al.,

Defendants.

Case Number C 08-1354 JF (RS)

ORDER¹ RE FILING FEE

[re: doc. no. 115]

On June 27, 2008, the Court stayed the instant case pending Plaintiff's appeal of the denial of his application to proceed *in forma pauperis*. Plaintiff also was granted leave to amend his complaint. On April 14, 2009, the Court denied Plaintiff's renewed request to proceed *in forma pauperis* and instructed Plaintiff to pay the civil filing fee within thirty days. Plaintiff subsequently filed another notice of an appeal. On May 29, 2009, this Court found that Plaintiff's multiple requests to proceed *in forma pauperis* were frivolous or not made in good faith, thereby allowing Plaintiff to file a request to proceed in the Court of Appeals without paying the \$455.00 fee required for a civil appeal. *See* Fed. R. App. P. 24(a)(4)-(5). Plaintiff

¹ This disposition is not designated for publication in the official reports.

1 appears to have not filed such a request.

2 On June 16, 2009, Plaintiff submitted a letter to the Clerk of this Court requesting that
3 \$350.00 be withdrawn from his prisoner's trust account to pay the civil filing fee. It thus appears
4 that Plaintiff seeks to proceed in this Court and to not proceed with an appeal of the denial of his
5 application to proceed *in forma pauperis*.² However, the Clerk of the Court does not initiate or
6 control payments from a prisoner's trust account. Instead, a prisoner must instruct the
7 administrator of the trust account to make the required payment. Accordingly, Plaintiff shall be
8 given thirty (30) days from the date of this order pay the civil filing fee; if the fee is not paid the
9 instant case will be dismissed without prejudice.

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11 IT IS SO ORDERED.

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15 DATED: June 22, 2009

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18 JEREMY FOGEL
19 United States District Judge
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27 ² If Plaintiff wishes to withdraw his appeal, he should file a motion to dismiss in the
28 Court of Appeals pursuant to Fed. R. App. P. 42(b).

1 This Order has been served upon the following persons:

2 James Alan Bush
DWF967-08086698

3 701 S. Abel St.
4 Milpitas, CA 95035

5 James Alan Bush
DWF967-08086698
6 885 N. San Pedro Ave., 6-C
7 San Jose, CA 95110